Supreme Court, U.S.
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No. 85-2155

In the Supreme Court of the United States

OCTOBER TERM, 1986

OGDEN ANDERSON, PETITIONER

v.

UNITED STATES POSTAL SERVICE

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

MEMORANDUM FOR THE RESPONDENT IN OPPOSITION

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The judgment of the court of appeals (Pet. App. 25) in this civil action was entered on December 6, 1985. Petitioner did not seek rehearing and did not obtain an extension of time within which to file a petition for a writ of certiorari. The time for filing a petition accordingly expired on March 6, 1986. 28 U.S.C. 2101(c). The petition was not filed until March 7, 1986. The petition, which was filed pro se, was not accompanied by a notarized statement by a member of the Bar of this Court stating that the mailing took place on a particular date within the permitted time. See Rule 28.2 of the Rules of this Court. The petition was therefore out of time. The time limit provided by 28 U.S.C. 2101(c) is jurisdictional. *Department of Banking* v. *Pink*, 317 U.S. 264 (1942).

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

CHARLES FRIED
Solicitor General

NOVEMBER 1986